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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,413	08/27/2001	Takashi Ohgawara	65771/JPW/MS	4336

7590 08/25/2004  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, NY 10036

EXAMINER

BARBEE, MANUEL L

ART UNIT PAPER NUMBER

2857

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/940,413	<b>Applicant(s)</b> OHGAWARA ET AL.	
	<b>Examiner</b> Manuel L. Barbee	<b>Art Unit</b> 2857	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-9,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US Patent No. 5,950,140 in view of Tomioka et al. (US Patent No. 6,606,748).

With regard to collecting the measured data items, as shown in claims 1 and 7, Smith teaches using remote sensors to collect position information (col. 2, lines 6-24; col. 2, line 55 - col. 4, line 67). With regard to generating measurement data for users according to contract conditions for each user, as shown in claims 1 and 7, Smith teaches gathering measurements and generating a report according to an user defined set of data (col. 6, lines 1-23). Smith does not teach storing contract conditions for a plurality of users, hierarchically grouping in editing the measured data, storing the generated measurement data hierarchically grouped for a plurality of users in a database or transmitting in response to a data request the data according to contract conditions of the requester.

Tomioka et al. teach storing attribute data in an attribute information storage section of an information provider (col. 11, line 60 - col. 12, line 20). Tomioka et al. teach dividing data into a number of levels and selecting appropriate types of data for types of user and giving priority to certain data for users according to characteristics of

the user and therefore teach hierarchically grouping data according to the user attributes or contract conditions (col. 11, lines 32-63; col. 14, line 35 - col. 16, line 35). Tomioka et al. teach storing the data in a database and grouping data for a plurality of users (col. 13, lines 24-28; col. 15, line 53 - col. 16, line 35). Tomioka et al. teach transmitting corresponding to contract conditions in response to a data request (col. 16, lines 54-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the land monitoring method, as taught by Smith, to include providing customized information grouped into different levels and types based on attributes and characteristics to users in response to a data requests, because then information would have been customized to more than one user and unneeded information would not have been transmitted (Tomioka et al., col. 1, line 51 - col. 2, line 9).

3. Claims 2, 3, 5, 6, 8, 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Tomioka et al., as applied to claims 1 and 7 above, and further in view of Oishi (JP 410112264A).

Smith and Tomioka et al. teach all the limitations of claim 1 upon which claims 2, 3, 5 and 6 depend and claim 7 upon which claims 8, 9, 11 and 12 depend. Further, with regard to generating measurement data according to contract conditions, as shown in claims 3 and 9, Smith teaches using an user defined set of data, as shown above with regard to claims 1, 4, 7 and 10. Smith and Tomioka et al. do not teach generating data on the condition that each at least one measuring instrument does not malfunction, as shown in claims 2 and 8, or determining whether at least one of the measured data

items is abnormal and giving a re-measurement instruction in the case where at least one measured data item is abnormal, as shown in claims 3, 5, 6, 9, 11 and 12.

Oishi teaches determining whether a measurement value is abnormal or erroneous and making a remeasurement when data is abnormal (Abstract). Oishi teaches displaying data when it is judged to be correct. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the creep monitoring apparatus, as taught by Smith, to include checking to make sure measurements are normal and remeasuring when an abnormal measurement is detected, as taught by Oishi, because then more accurate measurements would have been made and inaccurate measurements would not have been included in the data collection.

#### ***Response to Arguments***

4. Applicant's arguments filed 6 July 2004 have been fully considered but they are not persuasive.

Applicant states that the cited art does not teach or suggest generating measurement data for each of a plurality of contract users, which is obtained by hierarchically grouping in editing the measured data items according to the stored contract conditions for each of the plurality of users. Smith teaches gathering measurements and generating a report according to an user defined set of data (col. 6, lines 1-23). The Examiner relies on Tomioka et al. to teach hierarchically grouping the data. Tomioka et al. teach dividing data into a number of levels and selecting appropriate types of data for types of user and giving priority to certain data for users

according to characteristics of the user and therefore teach hierarchically grouping data according to the user attributes or contract conditions (col. 11, lines 32-63; col. 14, line 35 - col. 16, line 35).

Applicant states that the cited art does not teach storing the generated measurement data hierarchically grouped for each of the plurality of contract users in a database. Tomioka et al. teach storing the data in a database and grouping data for a plurality of users (col. 13, lines 24-28; col. 15, line 53 - col. 16, line 35).

Applicant states that the cited art does not teach transmitting in response to a data request from a contract user, data corresponding to contract conditions. Tomioka et al. teach transmitting corresponding to contract conditions in response to a data request (col. 16, lines 54-61).

Applicant further states that Tomioka does not purport to be directed to ground measurement data and therefore one skilled in the art would not have looked to the teachings of Tomioka. Tomioka et al. is generally directed to providing customized information to a plurality of users (col. 1, lines 10-16; col. 27, line 49 - col. 28, line 52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the land monitoring method, as taught by Smith, to include providing customized information grouped into different levels and types based on attributes and characteristics to users in response to a data requests, because then information would have been customized to more than one user and unneeded information would not have been transmitted (Tomioka et al., col. 1, line 51 - col. 2, line 9).

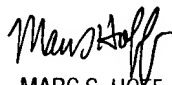
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 571-272-2212. The examiner can normally be reached on Monday-Friday from 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0976.

mlb  
August 16, 2004

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800